

Appl. No. 10/731,171

Attorney Docket: P17844

**REMARKS**

The above referenced patent application has been reviewed in light of the Office Action, dated June 07, 2006, in which:

- the specification (paragraph 33) is objected to as containing an inadvertent typographical error;
- claim 35 is objected to as containing an inadvertent typographical error
- claims 17 and 24 are rejected under 35 U.S.C. § 101 as non-statutory embodiments;
- claim 43 is rejected under 35 U.S.C. § 103(a) on Takagi (US Patent No. 5,371,857) in combination with Ellsworth *et al.* (hereinafter 'Ellsworth;' US Patent No. 6,453,344);
- claims 4-9, 11-13, 30, 32, 34, 38, 39, 45, 47, 48, and 52 are allowed;
- and claims 18-22, 25, and 26 are objected to as being dependent upon a rejected base claim.

Reconsideration of the above referenced patent application in view of the foregoing amendments and the following remarks is respectfully requested.

A Petition for Extension of Time in order to extend the period for response 3 month(s), including the appropriate fee, is filed herewith.

Claims 4-9, 11-13, 17-22, 24-26, 30, 32, 34, 35, 38, 39, 45, 47, 48, and 52 are now pending the above referenced patent application. No claims have been added. Claim 43 has been cancelled. Claims 17, 24, and 35 have been amended. However, these amendments merely rewrite dependent claims in independent form; therefore no prosecution history estoppel should result from these amendments. No new matter is entered.

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## **1. Objections**

### ***1.1. Specification: Paragraph [0033]***

The PTO has objected to an inadvertent typographical error in the specification at paragraph [0033] of U.S. Publication 2005/ 0125580 A1. Applicants have corrected this typographical error and thank the Examiner for pointing this out.

### ***1.2. Claim 35: missing "and"***

The PTO has objected to an inadvertent typographical error in claim 35. Applicants have corrected this typographical error and thank the Examiner for pointing this out.

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## **2. 35 U.S.C. § 101**

### ***2.1. Claims 17 and 24***

The PTO has rejected claims 17 and 24 under 35 U.S.C. § 101 as being non-statutory subject matter. Applicants respectfully but strongly disagree with the rejection and the PTO's new and, Applicants believe, non-statutory interpretation of § 101.

However, in the interests of furthering prosecution, and because the Examiner provided a suggested amendment (which not all Examiners provide and Applicants do greatly appreciate) Applicants have amended the rejected claims to include the Examiner's suggested amendment. However, Applicants feel that the amendment does not change the original scope of the claims and; therefore, the amendment does not result in prosecution history estoppel.

Therefore, it is respectfully requested that the PTO withdraw the rejections of these claims.

## **3. 35 U.S.C. § 103(a)**

### ***3.1. Takagi and Ellsworth: Claim 43***

The PTO has also rejected claim 43 under 35 U.S.C. § 103(a) based upon Takagi in combination with Ellsworth. Applicants respectfully disagree with the rejection.

However, in the interests of furthering prosecution, Applicants have cancelled the rejected claim.

Therefore, it is respectfully asserted that the rejection is moot, and respectfully requested that the PTO withdraw the rejections of these claims.

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**CENTRAL FAX CENTER****DEC 07 2006****CONCLUSION**

In view of the foregoing, it is respectfully asserted that all claims pending in this application, as amended, are in condition for allowance. If the Examiner has any questions, they are invited to contact the undersigned at 503-264-7002. Reconsideration of this patent application and early allowance of all claims is respectfully requested.

Respectfully submitted,

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